

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION**

Civil Action No. 4:11-CV-00094-BO

BRUCE BANNISTER; MAX DUTTON;  
and MARION TOWLES;

Towles,

vs.

WAL-MART STORES EAST, L.P.,

Defendant.

**APPENDIX TO DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT REGARDING MAX  
DUTTON'S CLAIMS**

**D-7**

**Declaration of Eric Litchfield Exhibit 7**

Email to M. Hunter from E. Litchfield (1/18/2010)

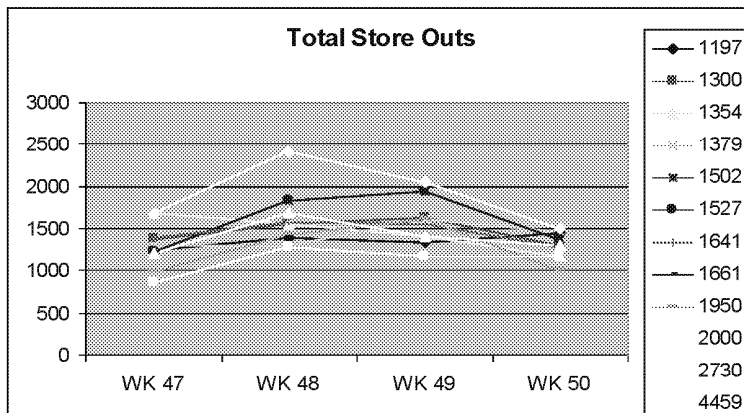
Message

**From:** Eric Litchfield [/O=WAL-MART/OU=REMOTE OFFICES/CN=RECIPIENTS/CN=ELLITCH]  
**Sent:** 1/18/2010 9:57:31 PM  
**To:** Marlene Hunter [marlene.hunter@wal-mart.com]  
**Subject:** RE: Max Dutton - supporting documents needed  
**Attachments:** Untitled Attachment; MM Out Report DC updates.xls; Untitled Attachment; Untitled Attachment; Untitled Attachment; Untitled Attachment; Untitled Attachment; Untitled Attachment; Untitled Attachment; Untitled Attachment; Weekly Score Card Tracker -- USE THIS ONE.xls

Marlene,

Store 2000 has trended above market average in Out Of Stocks during entire time period of follow-up. 500 outs is goal for a Div 1 store. 1000 is goal for SC. 1950 my only other Div 1 store has been around 1000 outs.

wk 35	wk 36	wk 37	wk 38	WK 39	WK 40	WK 41	WK 42	WK 43	WK 44	WK 45	WK 46	WK 47	WK 48	WK 49	WK 50
Store															
2000															
1302	1608	2005	2149	2362	2320	1718	1650	1530	2101	1751	1805	1688	2407	2051	1504
Market Average															
1213	1268	1265	1328	1290	1329	1235	1145	1156	1214	1191	1148	1234	1556	1540	1286



MM Out Report  
DC updates.xls

This is the MM report from FY-10.

Front end: 93 is above company goal. .

:

Front End Score Card

Store	38	39	40	41	42	43	44	45	46	47	48	49	50
1197	93.3	94.2	96.4	95.9	96.5	77.7	93.9	94.2	88	82.6	91.3	92.3	95.4
1300	94.8	92.8	96.4	94	93	79.9	90.3	88.6	82.1	82.6	91.4	92.5	94.7
1354	94.2	96	96.4	94.7	94.9	81.5	90.9	96.6	86.2	81.4	93.5	93.7	95.6
1379	94.7	94.6	96.4	95.2	91.9	90.8	95.7	91.7	89.9	81.2	94.6	94.2	92.8
1502	89.9	93.6	96.4	96.1	96.6	90.5	95.4	89.5	91.4	93.2	96.4	95.1	93.4
1527	94.4	92.8	96.4	90.1	85	81.9	93.4	88.3	84.1	80.2	85.1	89.9	88.6
1641	97.1	94.5	96.4	96.5	96.3	91	95.2	95.5	96.9	95.1	96.2	96.1	97.2
1661	93	96.5	96.4	95.4	93.6	81.5	94.5	88.4	79.1	84.2	96.6	96.2	95.6
1950	95.9	91.8	96.4	91.5	90.9	91.2	96.8	96.9	91.4	90.4	96	94.3	90.3
2000	78.2	79.7	96.4	88.5	90.8	76.6	88.4	92.5	92.3	90.4	89.8	89.9	88.7
2730	89.9	88	88.5	93.4	90	78.1	85	83.9	76.6	77.4	85.7	86.5	90
4459	92.8	93.6	95.3	92.4	92.6	83	93.6	88.6	84.7	81.4	92.7	92.8	96.1
Mkt	92.3	92.4	94.6	93.6	92.6	83.6	92.8	91.2	86.9	85.3	92.4	92.5	93.2

Apparel: 90 is company goal. Hit and miss on this card.

Apparel	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
38		69%	56%	64%	74%	74%	71%	73%	88%	81%	25%	56%	47%
39		63%	49%	55%	73%	73%	68%	52%	91%	81%	30%	57%	39%
40		90%	67%	93%	89%	90%	84%	92%	97%	93%	54%	88%	73%
41	81	91%	90%	93%	94%	81%	77%	77%	95%	76%	79%	51%	70%
42	87	92%	78%	92%	91%	94%	90%	94%	93%	96%	67%	72%	79%
43	79	89%	88%	69%	91%	63%	84%	73%	97%	94%	64%	64%	74%
44	86	90%	77%	91%	88%	87%	93%	85%	97%	95%	85%	76%	72%
45	85	92%	95%	96%	93%	77%	87%	75%	97%	70%	84%	90%	60%
46	86	90%	91%	91%	92%	86%	88%	87%	96%	96%	87%	69%	57%
47	84	81%	92%	90%	92%	79%	83%	89%	87%	92%	86%	78%	59%
48	80	93%	78%	94%	94%	52%	78%	72%	94%	99%	73%	76%	61%
49	78	77%	68%	93%	82%	60%	73%	47%	96%	98%	95%	78%	70%
50	78	94%	75%	74%	91%	78%	74%	59%	80%	99%	56%	75%	75%

Electronics: 90 is goal. Exceeded market average and company goal once.

Electronics	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
40		61%	88%	90%	84%	72%	44%	0%	97%	92%	73%	73%	12%
41	86	85%	84%	90%	93%	95%	90%	76%	98%	96%	77%	74%	69%
42	86	92%	80%	93%	83%	95%	91%	89%	98%	95%	80%	73%	67%
43	86	66%	74%	66%	76%	80%	79%	61%	94%	70%	57%	43%	42%
44	86	78%	77%	82%	92%	90%	94%	95%	98%	94%	75%	61%	56%
45	81	73%	65%	91%	90%	93%	92%	90%	98%	94%	58%	76%	51%
46	76	67%	78%	72%	94%	84%	93%	80%	99%	75%	61%	61%	52%
47	73	65%	76%	76%	91%	80%	92%	73%	90%	73%	57%	47%	51%
48	86	95%	91%	86%	91%	93%	92%	82%	97%	91%	76%	67%	74%
49	80	96%	94%	91%	93%	28%	85%	92%	96%	95%	90%	57%	43%
50	85	94%	93%	92%	95%	92%	91%	79%	98%	91%	70%	62%	59%
51													
52													

IMS Supervisor: Goal is 90.

IMS Sup	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
44	88	99%	50%	93%	99%	66%	95%	97%	99%	99%	50%	86%	97%
45	82	59%	40%	99%	90%	68%	100%	88%	83%	98%	69%	88%	99%
46	78	50%	46%	100%	99%	48%	76%	97%	99%	100%	50%	69%	98%
47	90	62%	85%	95%	90%	61%	76%	83%	89%	98%	50%	89%	78%
48	76	50%	94%	95%	97%	36%	82%	94%	81%	94%	0%	53%	99%
49	86	97%	86%	98%	69%	49%	70%	97%	88%	99%	36%	93%	88%
50	82	50%	100%	88%	98%	48%	84%	92%	97%	90%	60%	47%	98%
51													
52													

IMS Associate: Goal is 90

IMS Asso	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
44	91	89%	80%	82%	97%	86%	89%	80%	88%	46%	85%	85%	59%
45	90	98%	86%	95%	97%	75%	72%	80%	97%	86%	80%	61%	46%
46	91	86%	93%	86%	96%	94%	93%	96%	94%	82%	79%	75%	55%
47	97	100%	81%	95%	59%	86%	94%	94%	97%	99%	76%	84%	67%
48	88	90%	95%	79%	94%	96%	93%	93%	68%	86%	82%	79%	41%
49	91	88%	93%	81%	98%	95%	83%	99%	90%	94%	93%	91%	48%
50	93	95%	96%	94%	98%	97%	95%	98%	86%	63%	94%	73%	43%
51													

Day picks: goal is 100%

Day Pick	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
44	97	100%	93%	83%	94%	100%	100%	100%	99%	100%	97%	96%	92%
45	98	98%	97%	87%	96%	100%	100%	100%	100%	100%	93%	97%	93%
46	97	99%	98%	94%	88%	99%	100%	100%	100%	100%	94%	88%	90%
47	88	95%	95%	74%	83%	95%	96%	74%	88%	97%	74%	72%	80%
48	95	100%	99%	95%	90%	100%	100%	100%	100%	99%	66%	82%	87%
49	97	100%	100%	95%	92%	99%	100%	100%	100%	100%	87%	84%	90%
50	98	100%	100%	96%	97%	99%	100%	100%	100%	99%	86%	97%	97%

Night picks: goal is 100%

Nigh Pick	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
44	90	100%	42%	100%	96%	100%	100%	98%	100%	99%	98%	81%	100%
45	88	97%	36%	97%	98%	100%	100%	98%	100%	100%	92%	74%	100%
46	87	84%	52%	100%	98%	100%	100%	100%	100%	99%	79%	100%	52%
47	69	73%	55%	72%	71%	73%	74%	70%	84%	85%	50%	72%	64%
48	88	97%	98%	100%	88%	100%	98%	100%	100%	100%	43%	83%	100%
49	97	100%	99%	100%	100%	100%	99%	100%	100%	100%	70%	100%	100%
50	98	98%	97%	100%	97%	100%	100%	99%	95%	100%	100%	100%	88%

Exceptions worked goal 100%

Except	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
44	95	97%	96%	85%	93%	93%	100%	96%	100%	99%	91%	97%	91%
45	85	90%	98%	89%	91%	98%	100%	94%	100%	99%	94%	95%	93%
46	96	97%	99%	97%	87%	100%	100%	98%	99%	95%	97%	97%	90%
47	91	97%	96%	96%	77%	100%	100%	87%	95%	99%	80%	92%	82%
48	94	98%	100%	89%	80%	99%	100%	97%	100%	94%	78%	93%	88%
49	87	99%	100%	93%	85%	100%	99%	98%	100%	100%	94%	97%	97%
50	87	99%	100%	95%	96%	99%	100%	97%	100%	97%	91%	94%	97%

Dry Grocery/GM stocker goal is 90%.

Dry Food/GM stocker													
	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
38		59%	72%	52%	71%	70%	57%	82%	70%	85%	65%	88%	25%
39		69%	62%	66%	84%	75%	74%	92%	86%	86%	77%	64%	29%
40													
41	65	64%	66%	80%	80%	76%	80%	59%	92%	67%	66%	49%	0%
42	68	77%	71%	85%	88%	89%	92%	62%	90%	63%	49%	52%	0%
43	70	47%	74%	92%	73%	76%	82%	50%	93%	71%	63%	53%	*
44	77	77%	81%	89%	91%	81%	87%	70%	87%	73%	65%	51%	*
45	82	95%	77%	84%	87%	87%	90%	91%	85%	66%	79%	59%	*
46	81	88%	75%	85%	82%	84%	89%	94%	85%	61%	80%	63%	*
47	48	65%	51%	58%	53%	46%	63%	49%	53%	31%	62%	45%	0%
48	81	81%	74%	88%	84%	82%	90%	87%	87%	62%	77%	77%	86%
49	84	91%	79%	91%	86%	87%	92%	96%	79%	86%	72%	66%	*
50	82	91%	78%	90%	87%	85%	89%	94%	83%	78%	70%	54%	*

Goal is 90%. 2000 does not

Frozen/Dairy Stocker													
	Mkt Avg	1197	1300	1354	1379	1502	1527	1641	1661	1950	2000	2730	4459
38		42%	66%	72%	52%	67%	56%	25%	42%	*	0%	27%	25%
39		62%	66%	69%	63%	78%	76%	38%	49%	*	0%	40%	49%
40													
41	52	61%	60%	72%	69%	75%	69%	37%	75%	0%	*	19%	32%
42	65	60%	61%	61%	61%	74%	83%	64%	78%	*	*	39%	67%
43	64	72%	62%	59%	48%	86%	69%	99%	88%	0%	*	33%	84%
44	55	56%	63%	75%	82%	84%	65%	57%	78%	0%	0%	40%	59%
45	63	51%	66%	85%	82%	89%	66%	100%	82%	0%	17%	43%	70%
46	69	71%	69%	74%	76%	80%	82%	99%	85%	*	0%	38%	87%
47	46	47%	37%	36%	59%	66%	42%	99%	57%	*	0%	41%	23%
48	71	72%	67%	74%	91%	80%	77%	100%	83%	*	0%	41%	99%
49	68	76%	66%	79%	82%	82%	96%	99%	67%	*	0%	32%	70%
50	62	76%	56%	69%	92%	88%	82%	90%	48%	*	0%	32%	50%



Weekly Score  
Card Tracker -- ...

Here is the market tracking report.

Eric Litchfield | MM 486  
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843.743.1462  
Eric.Litchfield@Wal-Mart.com  
Walmart Stores, Inc. Market 486  
210 Greenville Blvd.

Greenville, NC 27834  
**Save Money. Live Better.**

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**From:** Marlene Hunter  
**Sent:** Monday, January 18, 2010 4:17 PM  
**To:** Eric Litchfield  
**Subject:** Max Dutton - supporting documents needed

Please give me the scorecard actual vs. plan that Max is not meeting.  
Specific information on out of stocks mentioned on Pip follow up I need the weekly number broken out for this time period  
Mr. Dutton disagrees that he is below expectations on the 1st PIP follow up, I need any supporting document you have that shows Mr. Dutton was below expectations as noted on the PIP follow up dated 1/6/09

**Marlene Hunter PHR, Regional Human Resources Director**  
Phone 770-975-5629, Fax 479-273-8139  
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Saving people money so they can live better.

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